



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

To: Board of Environmental Protection

From: Andrew Slusarski, Hazardous Waste Enforcement Unit, Bureau of
Remediation and Waste Management (BRWM)

Date: December 21, 2006

RE: Administrative Consent Agreement- Silvex, Inc

Statutory and Regulatory Reference: The Hazardous Waste Management Rules, Chapters 850 through 857 adopted pursuant to the Maine Hazardous Waste, Septage and Solid Waste Management Act, 38 M.R.S.A. Section 1301 et seq., specifies certain requirements for the management, storage, treatment and disposal of hazardous waste

Location: Silvex, Inc., 45 Thomas Drive, Westbrook, Maine 04092

Description: Silvex, Inc. has entered into the attached Consent Agreement as proposed by Department staff in order to resolve violations of Maine's Hazardous Waste Management Rules. The hazardous waste violations identified during an inspection conducted on May 19, 2006 include the following: 1) failure to properly mark containers of hazardous waste, 2) failure to determine if wastes generated are hazardous, 3) storage of hazardous waste in containers that were leaking or rusted, 4) failure to minimize unauthorized entry to hazardous waste storage areas, 5) failure to submit the most recent amendments to the facility's Integrated Contingency Plan to the Department, 6) failure to provide an emergency communication device that is immediately available in areas where waste is handled, 7) failure to execute annual aid agreements with local police, fire, hospital and emergency response teams, 8) failure to store universal wastes in containers that are closed, sealed and structurally sound, 9) failure to mark containers of universal waste mercury-containing lamps with the words "Waste Lamps" and 10) failure to mark each container of waste lamps with an accumulation start date and the date the container becomes full.

To resolve these violations, Silvex, Inc. has undertaken corrective actions and submitted documentation of compliance in written correspondence received by the Department on August 31, 2006.

Silvex, Inc. has agreed to perform the following at its facility: 1) comply with Title 38, Sections 1301 et seq., and all of Maine's Hazardous Waste Management Rules pertaining to hazardous waste generators, 2) henceforth mark containers of hazardous waste with the words "Hazardous Waste" and the date upon which accumulation began, 3)

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henceforth determine if all wastes generated are hazardous wastes, 4) henceforth store hazardous waste in containers that are not rusted or leaking, 5) henceforth ensure that all hazardous waste storage areas are clearly identified, 6) henceforth ensure that amendments to the Integrated Contingency Plan are submitted to the Department, 7) henceforth ensure that emergency communication devices are immediately available in areas where hazardous wastes are managed, 8) henceforth document annual aid agreements, 9) henceforth manage all Universal Wastes in accordance with the Rules, and 10) pay to the Maine Hazardous Waste Fund the sum of Eleven Thousand Nine Hundred Dollars (\$11,900.00) as specified in the Agreement

The Maine Hazardous Waste Fund is established by statute to provide the Department with the capability for prompt and effective response to spills and unlicensed discharges of hazardous waste, and for the inspection or supervision of hazardous waste handlers and related hazardous waste activities. Pursuant to statute, all fees, penalties, interest, and other charges relative to those activities must be credited to the Maine Hazardous Waste Fund.

Silvex, Inc. has agreed to pay the above penalty which was based upon the type of violations involved, the amount of waste involved, the relative extent of deviation from the requirements, and economic benefits realized. Aggravating factors considered in the penalty included the lack of regular hazardous waste determinations, storage of hazardous waste in rusted, leaking containers and the repeat nature of three of the violations. Mitigating factors considered in the penalty included Silvex's timely attention in providing requested information to the Department, prompt hazardous waste determinations after the inspection and a subsequent removal action, and its cooperation in working through the issues to achieve compliance.

Department Recommendation

The Department recommends that the Board accept the Consent Agreement as part of its Consent Agenda to resolve the issues addressed.

Staff Contact persons

Andrew Slusarski, Hazardous Waste Enforcement Unit, BRWM
Michael Hudson, Hazardous Waste Enforcement Unit, BRWM

Estimated time of presentation: No presentation, Consent agenda item



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE HOUSE STATION 17 AUGUSTA, MAINE 04333

BOARD ORDER

IN THE MATTER OF

SILVEX INCORPORATED
45 THOMAS DRIVE, WESTBROOK
CUMBERLAND COUNTY, MAINE
HAZARDOUS WASTE ACTIVITIES

) ADMINISTRATIVE
) CONSENT AGREEMENT
) AND ENFORCEMENT
) ORDER

This Agreement by and among Silvex Incorporated (hereafter "Silvex"), the Maine Board of Environmental Protection (the "Board") and the State of Maine Attorney General is entered into pursuant to 38 M R S A Section 347-A(1) and in accordance with the Department of Environmental Protection ("Department") Consent Agreement Policy, as amended.

The parties agree as follows:

1. Silvex is a corporation which is organized and exists under the laws of the State of Maine, and operates a metal plating and finishing facility located at 45 Thomas Drive in Westbrook, Maine
2. Silvex generates, accumulates and stores hazardous wastes including but not limited to, wastes that meet the definition of hazardous waste due to the characteristic of ignitability, corrosivity, reactivity and toxicity. As a result of its hazardous waste activities, Silvex is subject to the requirements of the Maine Hazardous Waste, Septage and Solid Waste Management Act, 38 M R S A Section 1301 *et seq.*, (the "Act") and the Department's Hazardous Waste Management Rules (the "Rules"), Chapters 850 through 857
3. On May 19, 2006, the Department conducted a hazardous waste management inspection at the 45 Thomas Drive, Westbrook location by staff of the Department's Bureau of Remediation and Waste Management under the authority of the Rules. As a result of that inspection, the Department identified the following violations of the Rules:
 - A. Silvex failed to mark containers of hazardous waste with the words "Hazardous Waste" and the date upon which accumulation began, in violation of the Rules, Chapter 851, Section 8(B)(3)

Specifically, the following containers of hazardous waste identified during the inspection, were not marked "Hazardous Waste" and did not have accumulation start dates:

1) The flammable cabinet on the left side of the Hazardous Waste Storage Area ("HWSA") room had several one-gallon containers that were marked "do not use; outdated" or "out of calibration; do not use".

2) The flammable cabinet on the left side of the HWSA room had at least two (2) one-quart containers that were marked "old paint" that are hazardous as evidenced by the Hazardous Materials Identification System ("HMIS") labels with ratings "Health-3" for serious hazard to health and "Reactivity-2" for moderately hazardous for reactivity, which includes a level of reactivity that meets the definition of a hazardous waste

This violation is similar to one cited in a Notice of Violation issued to Silvex dated September 14, 2000

- B** Silvex failed to determine if wastes generated are hazardous, in violation of the Rules, Chapter 851, Section 5.

Specifically, hazardous waste determinations had not been performed on several containers of chemicals stored in three (3) flammable cabinets located in the HWSA room. Some of the containers observed and photographed were badly rusted, leaking, unmarked (no markings, no labels, badly deteriorated labels). Unknown chemicals were stored in plastic food containers, and in containers marked in French, one of which was marked "reactif" (reactive)

On June 28, 2006 Silvex issued a letter to the Department in response to a request for additional information, which described steps taken to achieve compliance. On June 9, 2006, Silvex contracted Enviro Safe Corporation and Jones Environmental for the removal of "unneeded material" (aka waste) that had been segregated from usable material including materials from the cabinets in the HWSA room. "Lab Pack Container Contents" forms and hazardous waste manifests provided to the Department indicate that approximately ten (10) pounds of corrosive hazardous waste (D002) and four hundred twenty nine (429) pounds of ignitable hazardous waste (D001) were transported from Silvex for disposal as documented by hazardous waste manifests MA Q664557 and ME A180400 as a result of a clean out of cabinets in the HWSA.

- C** Silvex stored hazardous waste in containers that were rusted or leaking, in violation of the Rules, Chapter 851, Section 13(C)(3)

Specifically, the following containers of hazardous waste were observed

1) The flammables cabinets in the HWSA room had several containers that were rusted and leaking

2) One (1) fifty-five gallon drum of cyanide strip located in the HWSA room had hazardous waste exuding from the bung

- D Silvex failed to minimize unauthorized entry to hazardous waste storage areas, in violation of the Rules, Chapter 851, Section 13(C)(7)(c)(i) which references 40 CFR 264.14.

Specifically, the Chemical Storage Room contains the F006 sludge HWSA (90 day area) which is located directly adjacent to the main aisle in the room and is not equipped with a locked door or any means to prevent unauthorized entry. A sign affixed to the door of the Chemical Storage Room (entrance from Production Area) read "Caution- Hazardous Waste Storage Area, Unauthorized Persons Keep Out." However, the sign was not visible, as the door had been secured open with a hook obscuring the front of the door. Another sign above the entrance from the Production Area read "Notice Authorized Personnel Only." This sign does not meet the required legend of "Danger- Unauthorized Personnel Keep Out" because it does not indicate that entry can be dangerous.

This violation is similar to one cited in a Notice of Violation issued to Silvex dated February 14, 1996.

- E Silvex failed to submit the most recent amendments to the facility's Integrated Contingency Plan to the Department, in violation of the Rules, Chapter 851, Section 8(B)(5), 40 CFR 264.53, and 38 M.R.S.A. Section 1318-C(2).

Specifically, Silvex represents that the Integrated Contingency Plan submitted to the Department pursuant to 38 M.R.S.A. Section 1318-C, is reviewed annually and amended as necessary. Silvex represents that the current revision in use is that of November 2002. During the inspection, the Department reviewed the November 2002 revision, along with a prior revision dated November 2001. These two revisions were not forwarded to the Department as required. The Department's files contain a revision dated January 19, 2001 on file in Augusta, and a revision dated October 23, 2000 on file in Portland. However, no revision dated November 2001 or November 2002 are in the DEP's files either in Augusta or Portland.

- F. Silvex failed to provide a device, such as a telephone that is immediately available and capable of summoning emergency assistance from local police departments, fire departments or State or local emergency response teams,

in areas where waste is handled, in violation of the Rules, Chapter 851, Section 8(B)(5) which references 40 CFR Part 264.32 and 264.34

Specifically, no "immediately available" internal communications device or alarm system was observed during the inspection at either the HWSA room or the F006 Sludge HWSA in the Chemical Storage Room. The nearest telephones were located approximately seventy five feet away from each HWSA, in different rooms and Departments. Specifically, the telephone for the HWSA room was located outside the room and around a corner in the Receiving Department, and the nearest phone for the F006 Sludge HWSA was located in the laboratory room on the other side of the waste water treatment area.

- G Silvex failed to execute annual aid agreements in writing with local police, fire, hospital and emergency response teams, in violation of the Rules, Chapter 851, Section 13(C)(7)(c)(ii) which references 40 CFR 264.37

Specifically, there were no records to indicate that attempts had been made to secure annual aid agreements with local hospital, police, fire departments or emergency response teams from 2001 to 2005.

This is a repeat violation of a Notice of Violation issued to Silvex dated September 14, 2000.

- H Silvex failed to store all universal wastes in containers that are closed, sealed and structurally sound, in violation of the Rules, Chapter 850, Section 3(A)(13)(e)(vi)

Specifically, two (2) open boxes accumulating waste fluorescent lamps and two (2) open boxes, each containing an individual lamp, were observed in the universal hazardous waste storage area.

- I Silvex failed to mark containers of waste lamps with the words "Waste Lamps," in violation of the Rules, Chapter 850, Section 3(A)(13)(e)(xxiii)(e)

Specifically, one (1) of the two open boxes of waste fluorescent lamps was marked "bad bulbs" and the other was unmarked. One (1) of the boxes containing an individual lamp was marked "bad bulb" and the other was unmarked.

- J Silvex failed to mark each container of waste lamps with an accumulation start date and the date the container becomes full, in violation of the Rules, Chapter 850, Section 3(A)(13)(e)(xi)

Specifically, the boxes of waste lamps described above in paragraph 3(H) above did not have dates written on the boxes

- 4 On July 31, 2006, the Department notified Silvex by certified letter ("Notice of Violation and Enforcement Intent") of the violations cited in paragraph 3 of this Agreement
- 5 Silvex responded in writing on August 31, 2006 to the certified "Notice of Violation and Enforcement Intent" and represented that corrective actions had been taken, or would be taken to address the violations cited in paragraph 3 of this Agreement.
- 6 The Board has regulatory authority over the activities described herein
7. This Agreement shall become effective only if it is accepted by the Board and approved by the Attorney General
- 8 To resolve the violations referred to in paragraph 3 above, Silvex agrees to
 - A. Henceforth comply with the Act, 38 M R S A. Section 1301 et seq , and all of Maine's Hazardous Waste Management Rules, Chapters 850 through 857, pertaining to generators of hazardous waste
 - B Henceforth, mark containers of hazardous waste with the words "Hazardous Waste" and the date upon which accumulation began, pursuant to the Rules, Chapter 851, Section 8(B)(3)
 - C Henceforth, ensure that determinations are made as to whether its wastes are hazardous wastes, pursuant to the Rules, Chapter 851, Section 5
 - D Henceforth, store hazardous waste in containers that are not rusted or leaking, pursuant to the Rules, Chapter 851, Section 13(C)(3)
 - E Henceforth, ensure that all hazardous waste storage areas are clearly identified, in accordance with the Rules, Chapter 851 13(C)(7)(c)(i)
 - F. Henceforth, ensure that amendments and/or revisions to the Integrated Contingency Plan are submitted to the Department, in accordance with the Rules, Chapter 851, Section 8(B)(5), 40 CFR 264.53, and 38 M.R.S.A. Section 1318-C(2)
 - G Henceforth, ensure that communication devices capable of summoning emergency assistance are immediately available in areas where hazardous

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waste is managed, in accordance with the Rules, Chapter 851, Section 8(B)(5)

- H Henceforth, document annual aid agreements (or attempts made to secure annual aid agreements) with local police, fire, hospital and emergency response teams, in accordance with the Rules, Chapter 851, Section 13(C)(7)(c)(ii)
 - I Henceforth, manage all Universal Wastes in accordance with the Rules, Chapter 850, Section 3
 - J Pay to the Maine Hazardous Waste Fund, c/o the Department of Environmental Protection, the sum of Eleven Thousand Nine Hundred Dollars (\$11,900 00) upon signature of this Agreement
- 9 The Board and the State of Maine Attorney General grant Silvex a release of their causes of action against Silvex for the specific violations listed in paragraph 3 of this Agreement, when, and on the express condition that all actions listed in paragraph 8 of this Agreement are completed in accordance with the express terms and conditions of this Agreement, except that no release is granted for any contamination of surface waters, ground waters or soils as a result of the operations of Silvex or related activities. This Agreement shall not prohibit the Department from requiring additional corrective measures or other remedial actions if the Department determines that such action is necessary to protect the public health, safety or the environment

ORDER

Pursuant to 38 M.R.S.A. Section 347-A(1) and the Department's Consent Agreement Policy, as amended, and based on the Agreement set forth above, the Board ORDERS Silvex to

- 1 Henceforth comply with the Act, 38 M.R.S.A. Section 1301 et seq., and all of Maine's Hazardous Waste Management Rules, Chapters 850 through 857, pertaining to generators of hazardous waste

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2. Henceforth, mark containers of hazardous waste with the words "Hazardous Waste" and the date upon which accumulation began, pursuant to the Rules, Chapter 851, Section 8(B)(3)
3. Henceforth, ensure that determinations are made as to whether its wastes are hazardous wastes, pursuant to the Rules, Chapter 851, Section 5
4. Henceforth, store hazardous waste in containers that are not rusted or leaking, pursuant to the Rules, Chapter 851, Section 13(C)(3)
5. Henceforth, ensure that all hazardous waste storage areas are clearly identified, in accordance with the Rules, Chapter 851 13(C)(7)(c)(i)
6. Henceforth, ensure that amendments and/or revisions to the Integrated Contingency Plan are submitted to the Department, in accordance with the Rules, Chapter 851, Section 8(B)(5), 40 CFR 264.53, and 38 M R S A Section 1318-C(2)
7. Henceforth, ensure that communication devices capable of summoning emergency assistance are immediately available in areas where hazardous waste is managed, in accordance with the Rules, Chapter 851, Section 8(B)(5)
8. Henceforth, document annual aid agreements (or attempts made to secure annual aid agreements) with local police, fire, hospital and emergency response teams, in accordance with the Rules, Chapter 851, Section 13(C)(7)(c)(ii).
9. Henceforth, manage all Universal Wastes in accordance with the Rules, Chapter 850, Section 3

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IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of
eight (8) pages

SILVEX INCORPORATED

BY Philip R. Ridley DATE 11-29-06
Philip R. Ridley, President

BOARD OF ENVIRONMENTAL PROTECTION

BY _____ DATE _____
Matthew Scott, Chair

SEEN AND AGREED TO
STATE OF MAINE

BY _____ DATE _____
Dennis J. Harnish, Assistant Attorney General